

**SAINT REGIS MOHAWK TRIBE
MOHAWK COUNCIL OF AKWESASNE
MOHAWK NATION COUNCIL OF CHIEFS**

Kentenha/October 12, 2004

Watkwanonweraton/Greetings:

We bring good tidings from the St. Regis Mohawk Tribal Council, Mohawk Council of Akwesasne and Mohawk Nation Council of Chiefs. We trust that your families are in good health and spirits.

Since July 2003, our Councils and Technicians have worked countless hours to develop terms that could settle our land claims with the State of New York. In addition, for the first time in the 22-year history of our land claim court case, we included a community education and survey component to the land claim process and 1,775 Akwesasronon took part in the survey.

Because of our willingness to work together in unity and ensure community consultation in the process, we have been able to successfully conclude negotiations with the State of New York over the settlement terms. Enclosed are those terms in their entirety for you to review and discuss with your families.

We are hopeful that you will view the settlement terms carefully. The terms will allow for a doubling of our land holdings for the southern portion of our community and provide for compensation and low-cost power while preserving our aboriginal rights and rights to purchase lands beyond this settlement. Finally, we have been successful in including language that leaves the door open for future generations to possibly bring forward an aboriginal claim if federal laws change favorably.

Over the coming weeks, numerous community meetings, radio talk shows and other events will be scheduled to provide you with opportunities to question us and to comment on the settlement terms that have been developed. We also propose to share additional information through mail outs so that you may fully understand the settlement terms. If your family or a group want to request a special meeting, please contact us and we will work to accommodate your request.

We commit to not sign any land claim agreement with the State unless it has passed through a community ratification process. To honor that commitment, the St. Regis Mohawk Tribal Council will hold a referendum for their membership, tentatively scheduled to take place on Saturday, November 27, 2004. At the same time, the Mohawk Council of Akwesasne and the Mohawk Nation Council of Chiefs will seek the voices of their membership through the processes and protocols they prescribe.

Niawen Kowa,

St. Regis Mohawk Tribal Council

Mohawk Council of Akwesasne

Mohawk Nation Council
of Chiefs

Proposed Land Claims Settlement Between The State of New York and The Akwesasne Mohawks

Explanations/Rationale

Language that states what the specific land claims court cases were.

Language that ensures this agreement will be binding in the future.

Language that gives finality to this settlement that the state wants but also leaves the door open for future generations of Mohawks if federal law should change.

Language to protect our aboriginal rights.

Compensation will be provided to us by the State and/or the United States.

Language to exempt payments from taxes and to protect our eligibility for future state and/or federal funding of community services.

I. Understanding

1. It is the understanding of the State of New York (the “State”) and the tribal plaintiffs in Civil Action Nos. 82-CV-783, 82-CV-1114, and 89-CV-829 (the “Akwesasne Mohawks”) (collectively, the “Parties”) that it would be mutually beneficial to resolve all Akwesasne Mohawk land claims within New York State.

2. All references to state or federal law shall mean the laws as they exist and are interpreted by state or federal courts from time to time and shall include all future changes, amendments and revisions thereto unless otherwise stated.

II. Scope of the Agreement:

A. RELEASE. Except as otherwise provided in this settlement agreement, the Akwesasne Mohawks hereby release and forever discharge the State, its political subdivisions, its citizens, inhabitants, the Power Authority of the State of New York (the “Power Authority”) and any successors in interest, of and from any claim which could be brought under federal or state law at the time of the execution of this settlement agreement to land or interest in land in New York State.

1. Nothing in this agreement shall alter or diminish any treaty, statutory, contractual or aboriginal hunting, harvesting, fishing, trapping and/or gathering rights that the Akwesasne Mohawks may have; provided, however, that nothing in this settlement agreement shall be construed as recognizing the existence of, creating or conferring any such rights.

B. MONETARY SETTLEMENT

1. The State and the United States shall each pay one half of the sum of thirty million dollars, to be paid in five equal annual payments commencing within ninety days of the effective date of the settlement. Further, the Parties agree that the Power Authority shall pay the sum of two million dollars per year for thirty-five years commencing within ninety days of the effective date of this settlement agreement. The payments shall be exempt from federal or state taxation.

2. None of the payments, funds, assets or distributions set forth herein and none of the interest earned or income received on the same shall be subject to levy, execution, forfeiture, garnishment, lien, encumbrance or seizure. None of the payments, funds, assets or distributions set forth herein and none of the interest earned or income received on the same shall at any time be used as a basis for denying or reducing funds to the Akwesasne Mohawks under any

federal, state or local program nor shall the same be deemed to be taxable and such transfers shall not be deemed taxable events.

C. LAND

Language to reflect the federal court requirement that private lands can only be returned by purchase from willing sellers.

Lands in areas A-D will eventually be returned to us as restricted fee status. This means we are the original owners. This is the same status as current Mohawk lands south of the border.

Language to ensure we have the first opportunity to acquire lands in area A-D.

Language to address people passing away without a will and ensuring it is returned to us.

Language to convey the two islands to us. Please note that the islands will be returned in their entirety, including what was above water prior to construction of the Power Project.

The flooding easement allows the New York Power Authority the ability to raise the high water mark to elevation 250

1. Upon the effective date of the settlement, the Akwesasne Mohawks may acquire the following lands by purchase of parcels from willing sellers at fair market value or by voluntary transfer, with the understanding that boundaries for eligible parcels shall be drawn completely around such parcels so that the property may be acquired without being subdivided:

a. Land located in the Hogansburg-Bombay Triangle, as shown as “A” on the annexed map.

b. Up to 1300 acres of land located in the area in the Town of Fort Covington marked as “B” on the annexed map. The Akwesasne Mohawks may acquire additional lands beyond the 1300 acres in area “B” either by purchase from willing sellers or by transfer from Akwesasne Mohawks or by voluntary transfer, provided, however, that before any such acquisition, the Akwesasne Mohawks will obtain the prior written concurrence of both the County and Town in which such land is located, such concurrence which shall not be unreasonably withheld. When such land is acquired, it shall have the same status and be subject to administration by the Akwesasne Mohawks as set forth in C.5 of this settlement agreement.

c. Land located in the areas in the Town of Brasher marked as “C” on the annexed map, excepting the land on which the Power Authority transmission lines are located.

d. Land located in the area in the Town of Massena marked as “D” on the attached map, up to the Racquette River.

2. The Akwesasne Mohawks will be notified of all lands in the areas mentioned above which may come up for sale or auction as a result of a foreclosure by the State or County or other political subdivisions and shall be granted status as an “interested party” pursuant to section 1126 of the Real Property Tax Law of the State of New York.

Further, the Akwesasne Mohawks will be given a right of first refusal to purchase, at the appraisal value (as set forth in the most recent tax assessment), lands in the areas mentioned above that have passed to the state by escheat pursuant to the Abandoned Property Law of the State of New York.

3. In addition, the Power Authority shall convey Long Sault and Croil Islands above the normal average surface elevation, defined as elevation 241 feet (United States Lake Survey 1935), as depicted in the attached maps, to the Akwesasne Mohawks; provided, however, that prior to such conveyance those islands shall have been removed from the Federal Energy Regulatory Commission (“FERC”) boundary of the Power Authority’s St. Lawrence FDR Project (“Project”), which removal shall be provided for by the federal legislation ratifying this settlement agreement. The Akwesasne Mohawks shall grant to the Power Authority a flooding easement [the terms of which will be agreed to by the Power Authority and the Akwesasne

feet. This is to protect their ability to operate the Power Project.

Mohawks and attached as an Exhibit to this settlement agreement] up to elevation 250 feet for potential high water levels. The Power Authority and the Akwesasne Mohawks shall identify mutually agreeable sites on Barnhart Island and/or within Project boundaries to locate boat launching and marina docking facilities for development by the Akwesasne Mohawks to facilitate access to Croil and Long Sault Islands. The Power Authority shall issue permits to the Akwesasne Mohawks for the construction and maintenance of such facilities upon receipt of any necessary approval by FERC and any other appropriate federal or state agency. The Akwesasne Mohawks agree that they will not use or develop the Islands in a manner that interferes with the operation of the St. Lawrence Seaway or the Project.

Language to transfer the 215-acre Massena Point parcel to us.

4. The Power Authority shall also convey to the Akwesasne Mohawks a 215-acre parcel on Massena Point as depicted in the attached map; provided, however, that prior to such conveyance such parcel shall have been removed from the FERC boundary of the Project, which removal shall be provided for by the federal legislation ratifying this settlement agreement. The Akwesasne Mohawks shall grant to the Power Authority a flooding easement [the terms of which will be agreed to by the Power Authority and the Akwesasne Mohawks and attached as an Exhibit to this settlement agreement] up to elevation 183 ft. for potential high water levels. The Power Authority shall maintain at its own expense and provide for the Akwesasne Mohawks access to Massena Point from the existing roads controlled by the Power Authority within the new Project boundary.

Language clearly stating lands that are returned to us is Indian Country and subject to all of the rights afforded to Indian Country.

5. Except as otherwise provided herein, when such lands are purchased from willing sellers or conveyed by the Power Authority to the Akwesasne Mohawks, or conveyed to the Akwesasne Mohawks by voluntary transfer, in accordance with the provisions of this Section C, they shall become Indian reservation land and be considered Indian country as a matter of federal law, will be subject to federal restrictions against alienation and will enjoy all of the rights and immunities, specifically including but not limited to tax immunities, attributed to Indian Reservation lands and Indian country.

Language preserving our right to purchase lands after this settlement.

6. Lands acquired by the Akwesasne Mohawks outside of the areas described in the preceding paragraphs of this section shall be held in fee by the Akwesasne Mohawks unless acquired under Part 151 or other federal legal procedures.

Language providing free access to Robert Moses State Park.

7. The Office of Parks, Recreation and Historic Preservation shall waive any vehicle use fee for admission by any Akwesasne Mohawk to Robert Moses State Park.

Language providing us with a chance to bid on Barnhart Island if the state ever decides to sell it.

8. The Akwesasne Mohawks will have the opportunity to bid for the purchase of lands on Barnhart Island (such as parks, surplus lands, etc.), if the State should decide to sell it.

Language whereby we agree to allow access to public and cultural facilities.

9. The State agrees, within 60 days of the effective date of this settlement agreement, to use its best efforts to provide the Akwesasne Mohawks with a list of public and cultural facilities, including churches,

cemeteries and parks (collectively “Cultural/Recreation Areas”) that may become landlocked by lands which gain reservation status and/or are otherwise conveyed as a result of this settlement. The general public shall continue to have access to all such Cultural/Recreation Areas.

Language that transfers easements and rights of way to us.

10. The State agrees, within 60 days of the effective date of this settlement agreement to use its best efforts to provide the Akwesasne Mohawks with an inventory listing of utility and highway easements and rights of way on the conveyed lands. The Parties agree that all valid utility, railroad and highway easements and rights of way shall continue to be valid and of full force and effect, provided that any rights to future payments or benefits to which the original grantor of the easement(s) or right(s) of way would otherwise be entitled to inures to the Akwesasne Mohawks, as successors to such grantors.

Language allowing us access to public and cultural facilities off of our territories.

11. Akwesasne Mohawks shall continue to have access over publicly-owned land to public and cultural facilities located on publicly-owned lands off the reservation, such as churches and cemeteries and other spiritual and cultural sites that are on or landlocked by non-Reservation lands. Provided, however, that nothing in this agreement shall limit, abridge or alter the Akwesasne Mohawks ability to access such properties on private lands, pursuant to agreement with the landowner(s).

Language recognizing our right to establish and enforce our own building codes.

12. The Akwesasne Mohawks currently use standard building codes that are at least as stringent as those contained in the International Building Codes when constructing public facilities. The Akwesasne Mohawks agree to continue to utilize these standards, as amended from time to time.

Language recognizing our right to establish and enforce our own environmental codes.

13. The Akwesasne Mohawks may adopt and enforce environmental regulations on the Reservation at least as strict as those contained in federal law and regulations (which federal law and regulations shall continue to apply to the same extent as on any other land that is Indian country). If the Akwesasne Mohawks adopt and enforce on the Reservation more stringent environmental laws and regulations, then such more stringent regulations shall apply only on the Reservation and not to non-Reservation lands.

Language in which we agree to consult with our neighbors when we undertake projects within 500 feet of our boundary.

14. In making decisions as to the development and use of reservation land, the Akwesasne Mohawks shall give consideration to (i) the protection of established or planned residential areas from any use or development that would adversely affect residential living outside the Reservation, and (ii) protection of the health, safety and welfare of the communities contiguous to the Reservation. Prior to developing or otherwise altering the existing use of land within five hundred feet of the Reservation boundary, the Akwesasne Mohawks shall consult with local officials about the potential effect of such use on the adjacent community.

Language in which our neighbors agree to consult with us when they undertake projects within 500 feet of our boundary.

15. In making decisions as to the development and use of non-reservation land, local officials will give consideration to (i) the protection of established or planned residential areas from any use or development that would adversely affect residential living within the Reservation, and (ii) protection of the health, safety and welfare of the

Reservation community adjacent to the Reservation. Prior to developing or otherwise altering the existing use of land within five hundred [500] feet of the Reservation boundary, the local officials will consult with Mohawk officials about the potential effect of such use on the Reservation.

D. LOCAL GOVERNMENT ISSUES

Explicit language that our lands are exempt from real property taxes. Lands that are not ours do not have this same status.

1. Land that gains reservation status as a result of this settlement shall be exempt from local real property taxes. All such land within the areas marked as “A”, “B”, “C”, or “D” on the attached map shall remain subject to local real property taxes and other laws effective within the State until they are acquired by the Akwesasne Mohawks by purchase from a willing seller or by voluntary transfer to the Akwesasne Mohawks.

The state has established this fund to help its citizens deal with the impacts of this settlement. We have not contributed anything to this fund.

2. A community development fund shall be established to assist local governments, including Saint Lawrence and Franklin counties, in dealing with the fiscal impacts of the settlement. The fund shall consist of \$10 million, paid in equal annual payments over a five (5) year period from the effective date of settlement, contributions to which shall be shared equally by the State and federal governments. The projects to be funded with these revenues shall include, but not be limited to: replacement of, or improvements to, municipal buildings, sewer lines, water lines, fire stations, and retirement of existing municipal bond obligations. The revenue in the fund may also be used to reimburse the local governments for real property tax losses. As soon as practicable and upon receipt of the first annual payment of monies to the community development fund established herein, the local governments shall consent to the dismissal with prejudice of all foreclosure actions brought against lands owned by Akwesasne Mohawks for failure to pay real property tax and all taxes owed shall be forgiven, and further, if such foreclosure has occurred and title has passed to Franklin and/or St. Lawrence County, the county or counties shall transfer to the Akwesasne Mohawks the title to any lands which have been transferred by a member or members to the Akwesasne Mohawks.

Additional compensation that may be available for our neighbors for impacts from this settlement.

3. Local governments shall be eligible to receive all benefits provided by the United States to local governments impacted by Indian trust lands in other Indian land claim settlements, including but not limited to payments in lieu of real property taxes for parcels removed from the local tax rolls as a result of the settlement.

E. NEW YORK POWER AUTHORITY ISSUES

Language providing us with 9 MW of electricity for our community at NYPA's lowest rate for as long as the Power Project exists.

1. The Power Authority shall make available within 90 days after the effective date of this settlement up to nine (9) megawatts (MW) of power and energy for sale to the power corporation established by the Akwesasne Mohawks which power will be resold for the sole purpose of serving, without mark-up, the load of the Akwesasne Mohawks Reservation. This power shall be available to the Akwesasne Mohawks at the Power Authority's lowest rate for St. Lawrence-FDR Project power and energy (i.e., the rate charged to preference power customers). The Power Authority shall deliver and sell the power and associated energy to the Akwesasne Mohawks at the Delivery Point at the Project

Switch-Yard. It shall be the Akwesasne Mohawks responsibility to arrange for the transmission and distribution, including all charges imposed by the New York Independent System Operator or any Successor. In order to ensure that this power and energy is made available to the Akwesasne Mohawks beyond the expiration of the current license for the Project, and is binding upon any and all future owners and operators of the Project, the Power Authority shall seek FERC approval of the power sales agreement with the Akwesasne Mohawks pursuant to Section 22 of the Federal Power Act.

Language to ensure Mohawks who are part of the Massena electric grid are not jeopardized by this settlement.

We agree to withdraw our objections to NYPA's license for the Power Project.

We agree that this settlement does not entitle us to NYPA's license or any charges for electricity produced by NYPA.

We agree to take the islands and Massena Point out of the Project boundaries and to work with the State to remove Article 418 from their license.

Language providing any Akwesasne Mohawk with free tuition.

2. Nothing in this settlement agreement shall affect or otherwise remove those Mohawk land owners or Mohawk-owned businesses currently on the Massena Electric grid, unless mutually agreed upon.

3. Upon the effective date of this settlement agreement the Akwesasne Mohawks shall: (a) withdraw with prejudice all pending, and refrain from initiating any new, rehearing or reconsideration requests, petitions for judicial review, or any other administrative or judicial challenge to FERC's October 23, 2003, order issuing the Power Authority a new license for the Project, or any subsequent orders on rehearing or reconsideration of that October 23, 2003 order; and (b) participate as a concurring party under Section 106 of the National Historic Preservation Act, with the Power Authority's efforts to develop an Historic Properties Management Plan under the Programmatic Agreement and the new license for the Project.

4. The Parties agree that the conveyance or acquisition of lands described in Section II of this settlement agreement does not entitle the Akwesasne Mohawks or their members to: (a) any interest or right to the license for said Project; (b) any annual charges or other payments relating to ownership and operation of said Project or (c) any ownership, use, control or jurisdiction over the lands, waters, or operation of said Project.

5. In order to ensure that certain provisions of the Federal Power Act regarding federal reservations are not implicated at the Project, the Parties agree that the federal legislation ratifying this settlement agreement shall expressly: (a) direct FERC to permanently remove from the Project boundary all lands described in Section II of this settlement agreement; (b) direct FERC to remove Article 418 from the Project's license.

F. EDUCATION

Mohawks enrolled at Akwesasne, who qualify for admission to a campus of the State University of New York will not be required to pay tuition to attend such institutions; provided that the said Akwesasne Mohawk applicant applies for all other available state, federal or other educational grants or aid at the time of enrollment. Tuition awards shall equal the amount of tuition, reduced by any tuition-based grant, but shall in no event exceed the amount of tuition charged by the State University of New York.

G. SETTLEMENT LEGISLATION

Language explaining how disputes that may arise under this settlement agreement will be resolved.

Please note that some details related to the settlement legislation are still under discussion. The Mohawk Councils will distribute this language as soon as it is finalized.

The land claim settlement described herein shall take effect upon the enactment of such federal and state legislation as is mutually acceptable to the Parties to effectuate the terms of this settlement agreement and, further, upon the execution of appropriate releases and other documents that may be necessary. The federal legislation ratifying this settlement agreement shall provide for resolution of disputes between or among the Parties by arbitration, with arbitration decisions to be subject to enforcement and/or vacatur in the United States District Court in accordance with the Federal Arbitration Act, 9 U.S.C. §1, *et seq.* and provide for federal court jurisdiction over actions brought to enforce or review decisions issued in such arbitration proceedings.

LAND CLAIMS SETTLEMENT OFFER ENCLOSED

It's your decision!

Cast your ballot on Saturday, November 27th



Saint Regis Mohawk Tribe
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